

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

<b>CHARLENE CARTER,</b>	§	
	§	
<b>Plaintiff,</b>	§	<b>CIVIL ACTION NO.</b>
	§	
<b>vs.</b>	§	<b>3:17-cv-02278-X</b>
	§	
<b>SOUTHWEST AIRLINES CO., and</b>	§	
<b>TRANSPORT WORKERS UNION OF</b>	§	<b>JURY DEMANDED</b>
<b>AMERICA, LOCAL 556</b>	§	
	§	
<b>Defendants.</b>	§	

**DEFENDANT TWU LOCAL 556’S BRIEF REGARDING  
THE CALUCLATION OF PRE-JUDGMENT INTEREST**

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**I. INTRODUCTION**

Pursuant to the Court’s November 11, 2022 electronic order (No. 362), Defendant Transport Workers Union of America, Local 556 (“The Union” and/or “Local 556”) submits this brief addressing the impact of the Federal Reserve increasing the prime rate from 4.5% to 7.0% on Plaintiff’s backpay award.<sup>1</sup>

The purpose of backpay and pre-judgment interest is to make the plaintiff whole. Awarding Plaintiff an increased pre-judgment interest based on current market conditions provides nothing but an improper windfall. The jury awarded Carter \$150,000 for lost wages and benefits “sustained between March 14, 2017, and the date of the jury’s decision.”<sup>2</sup> As such, the appropriate calculation

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<sup>1</sup> The Union’s counsel was out of office from November 11-14, 2022, and therefore submits this briefing as timely as possible. The document was submitted to the Court and opposing counsel on November 15, 2022. Counsel was unable to file this document until Nov. 18, 2022 due to technical difficulties linking Pacer and ECF accounts.

<sup>2</sup> Doc. No. 348 at 13, 24.

of the prejudgment interest in this case is the weighted average of the prime rate applicable from her March 14, 2017 termination date until the date of judgement.

## **II. ARGUEMNT AND AUTHORITY**

The Supreme Court instructs that “[p]rejudgment interest is an element of complete compensation.”<sup>3</sup> In other words, it is implemented by the Court to make individuals whole for their losses. The Courts have been given broad discretion in applying pre-judgment interest, as “[n]o federal statute specifies what rate of prejudgment interest applies when a plaintiff prevails on a claim under Title VII.”<sup>4</sup> As the parties agree to the computation, simple interest, and the time period, termination through the date of judgment, the only question before the Court is to determine what interest rate is equitable.

The most equitable way to apportion prejudgment interest is to average the prime interest rates from the date of termination through entry of judgement. Indeed, many District Courts in Texas have taken this approach.<sup>5</sup> The current prime interest rates of 7% simply did not occur at any point from Plaintiff’s termination through the end of the trial. Indeed, the highest prime interest rate seen during this time period was 5.25%.<sup>6</sup> Applying the November 2022 rate at 7% is not equitable and would do nothing more than provide a windfall for the Plaintiff, merely because the Court entered judgment after the implementation of new rates.

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<sup>3</sup> *West Virginia v. U.S.*, 479 U.S. 305, 310 (1987)

<sup>4</sup> *Autry v. Ahern Rentals, Inc.*, 2022 U.S. Dist. LEXIS 173694, \*4 (W.D. Tex. Sep. 26, 2022).

<sup>5</sup> *Stanton v. Jarvis Christian Coll.*, 2020 U.S. Dist. LEXIS 163453, \*2-3 (E.D. Tex. Aug. 27, 2020); *Lowe v. Eltan*, 2018 U.S. Dist. LEXIS 221151, \*37 (E.D. Tex. Dec. 12, 2018); *ClearChoice Holdings, LLC v. Clear Choice Dental, PLLC*, 2016 U.S. Dist. LEXIS 183064, \*26 n.37 (S.D. Tex. Dec. 23, 2016).

<sup>6</sup> SEE ATTACHED EX. 1.

### **III. CONCLUSION**

In the name of equity and the goal of making Plaintiff's "whole," the Union asks the Court to enter prejudgment interest as the weighted average of the prime rate applicable from March 14, 2017 until the date of judgment.

**DATED: NOVEMBER 15, 2022**

**RESPECTFULLY SUBMITTED,**

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*\*Board Certified in Labor & Employment Law by the  
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**COUNSELS FOR DEFENDANT TWU LOCAL 556**

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all parties on the 15<sup>th</sup> day of November, 2022. Plaintiff's Counsel was unable to file this via ECF/Pacer until the 18<sup>th</sup> day of November, 2022.

/s/ Adam S. Greenfield  
Adam S. Greenfield